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Summary record of the 2610th meeting

Held at Headquarters, New York, on Tuesday, 24 March 2009, at 10 a.m.

Chairperson: Mr. Iwasawa

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Australia (*continued*)

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The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Australia (*continued*) (CCPR/C/AUS/5 and Corr.1; CCPR/C/AUS/Q/5 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Australia took places at the Committee table.*

2. **The Chairperson** invited the delegation of Australia to continue its replies to points raised in connection with the list of issues (CCPR/C/AUS/Q/5).

3. **Mr. Smith** (Australia), responding to the question about the National Child Protection Framework, said that it was due to be considered by the Council of Australian Governments at its next meeting in 2009. In the Government's discussion paper on the subject, indigenous child protection had been identified as one of six priority issues, which also included improved national coordination in the sharing of relevant information, ways of keeping indigenous children safe, better service models among both urban and remote communities and greater responsiveness to the needs of such children within existing services.

4. Referring to the clearing house initiative of the Council of Governments, he said that it predated the 2007 Social Justice Commissioner's report and had not grown out of any dissatisfaction with existing clearing houses. It was designed to provide a body of evidence to inform policies and service delivery for indigenous Australians and thereby help them to overcome their disadvantage. In its first year of operation, it would gather information on workable ways of influencing or improving school readiness, early literacy and numeracy, school attendance and retention, participation in the labour force and community safety among the indigenous population.

5. In response to the question concerning the report *Women, Domestic and Family Violence and Homelessness*, he said that it recommended a range of prevention and intervention initiatives, considering that, as there was no single pathway into homelessness for women affected by such violence, there could be no single solution. The report had provided inputs for the National Council's Plan for Australia to Reduce Violence against Women and their Children 2009-2011, whose recommendations were currently under consideration by the Government. The Personal Safety Survey conducted in 2005 had shown an almost twofold increase since 1996 in the number of women reporting physical assault by men. Its findings indicated that 33.3 per cent of women surveyed had experienced physical violence since the age of 15, 19.1 per cent had experienced sexual violence since the age of 15 and 12.4 per cent had been sexually abused before the age of 15. Since cases of violence against women were not treated separately from cases of assault in crime statistics, it was not easy to extract figures on complaints, investigations and penalties; however, information was generally available on numbers of restraining orders issued on the grounds of such violence. It was also difficult to give information about conviction rates as many reported cases of domestic violence went through the civil courts rather than the criminal justice system, while large numbers of such cases went unreported and hence did not go through either system. As for judicial training, a programme was being developed to raise awareness among police, prosecutors and the judiciary for the purposes of dealing with cases of sexual assault and domestic violence against women and to promote equitable access to the criminal justice system, which was yet to reach the stage of implementation. However, a number of developments, both in judicial colleges and judicial bodies, including skills training and model bench books, reflected increasing recognition of the need for appropriate knowledge and expertise in that area. Finally, on the question of the review of the Northern Territory Emergency Response, he said that one of its main recommendations was that Government actions affecting Aboriginal populations should respect Australia's human rights obligations and comply with the Racial Discrimination Act.

6. **Mr. Campbell** (Australia), returning to the countrywide human rights consultation announced in 2008, said that it would be predicated on the universality and indivisibility of such rights, which, in addition to those covered by the international covenants, were taken to include environmental rights. The Committee of eminent persons conducting the consultation would report its findings to the Government by 31 August 2009. It was proceeding by way of public meetings, of which 50 had already been held, not only in cities but also in remote localities, and was also inviting submissions to its website; it was also consulting key NGOs, encouraging contributions from

young people and planning polls and focused research; and it had circulated easily understandable background papers and fact sheets to ensure the broadest possible participation. The Australian Human Rights Commission, which was associated with the undertaking, had developed a toolkit and awareness-raising activities for the purpose.

7. As for the small number of references to the Covenant reported at the federal level in recent years, he said that Australia ranked with France and Switzerland in terms of the number of references made to international law, including human rights law, during court proceedings. It was true that the country's judges were not of one mind on issues of international law and that courts were bound only by domestic legislation since the Covenant was not self-executing in Australia. However, the High Court had found that international law was a powerful influence on the development of common law and relevant to statutory interpretation.

8. With regard to the question on judicial education, the National Judicial College provided continuing education for judicial personnel. The focus at the College was mainly on court craft and the social context of laws, namely, such factors as equality, gender and disability, and not so much on international law and the Covenant, although they were included.

9. Responding to question 2 on the list of issues, which dealt with Australia's reservations to the Covenant, his delegation took note of the Committee's views and concerns and would raise them with the Government. Specifically on the reservation to article 20, he noted that his Government did not view that reservation as being incompatible with the Covenant.

10. Various Committee members had asked about Australia's procedure for responding to the Committee's findings with regard to communications concerning Australia. The Commonwealth Attorney General's Department was responsible for coordinating any Government response to the Committee's views on such communications. It first solicited the views of the Government department concerned, and the texts of the Committee's views and those of the departments were then posted on the Attorney General's Department's website. With regard to the *Young* case, raised in question 3 on the list, he noted that Parliament had acted to remove many discriminatory provisions against same sex couples, including in the Veterans' Entitlements Act. Mr. Young would be entitled to apply for benefits if he met the regular criteria, although, given the fact that the amendments would take effect only in July, he might have to wait, or apply for an ex gratia benefit as a retrospective payment. The Government had no new information to report on the other cases mentioned in question 3.

11. Responding to the question about how Australia determined the "lawfulness of detention" referred to in article 9, paragraph 4, of the Covenant, he said that the term was interpreted as referring to domestic law, rather than to international law. Sir Nigel Rodley had asked about Australia's view on the applicability of international humanitarian law as *lex specialis* in international armed conflict. Australia considered that there was much consistency between international humanitarian law and international human rights law; where there were differences, international humanitarian law would take precedence.

12. Responding to a question about the protections applied to detained persons not protected as prisoners of war, he said that all detainees were entitled to protection, either as prisoners of war or under the Fourth Geneva Convention. Spies and saboteurs were a special case, but even they enjoyed some protection under international humanitarian law. In non-international armed conflicts the rules of international humanitarian law applied, in particular Additional Protocol II to the Geneva Conventions and common article 3 of the Conventions. With regard to torture, Australia considered itself bound by the Convention against Torture and other human rights standards and by its own domestic legislation on the subject. Australia constantly reviewed its security and counter-terrorism legislation in order to balance those concerns with its international human rights obligations. One area where such problems arose was when courts had to decide on bail for detainees in counter-terrorism cases. Bail was not automatically denied, but the seriousness of the threat in each case had to be evaluated. Bail regulations were being revised to permit, inter alia, appeals against court decisions denying bail. There had been 30 prosecutions for terrorism-related offences.

13. **Ms. Nolan** (Australia), responding to several questions relating to question 6 about the strategies undertaken to reduce the disproportionate number of Indigenous Australians in conflict with the criminal justice system, said that the Government's response to the Committee's list of issues gave most of the

information available. Queensland had set up a special sentencing court for Indigenous offenders in 2002, which was known as the Murri Court. Reviews of the Murri Court were under way, and generally speaking those involved considered that the Court was an effective mechanism for increased participation and ownership by the Indigenous community in the criminal justice process and they appreciated the fact that offenders often received rehabilitative probation orders rather than prison sentences. A national Indigenous and justice advisory body was being established to provide expert advice on Indigenous law and justice issues.

14. Turning to questions raised under question 7 of the list on efforts to amend the Native Title Act so as to improve central control of native title cases through the Federal courts and strengthen opportunities for the negotiated resolution of disputes, she said that the changes were in fact rather minor and mostly institutional in nature. There had been broad consultation on the amendments, which had also been posted on the Internet for comments. One of the intended outcomes was to encourage flexibility and negotiated solutions, rather than court proceedings. The Government's written response on question 7 contained further details.

15. Responding to questions about the recent Crimes Amendment (Bail and Sentencing) Act, she pointed out that the Act was intended to reduce the allowance for customary law and cultural practices at the bail and sentencing stages. Family and community structures were not excluded, but other factors such as the impact of release on bail on family members and witnesses were given greater weight, along with any punishment imposed or to be imposed by the tribe. In that connection a review of the Northern Territory Emergency Response was also under way to see whether the programme had helped to reduce the social and criminal justice problems in that region. Members of Committee had also asked about the recent review by the Human Rights and Equal Opportunity Commission of efforts to prevent crime among Indigenous young people with cognitive disabilities and mental health issues. The review had stressed the need to develop health and community services and housing. On the subject of disabilities among indigenous people, she noted that the budget for the new National Disability Agreement represented increased spending on disabilities. The Agreement sought to coordinate disability services delivered at the Commonwealth and State levels and to ensure quality and innovation in services. For Indigenous youth there was a focus on employment generation to help keep them from lapsing into despair, apathy and anti-social activities.

16. **Mr. Campbell** (Australia) said, with reference to question 11 and extradition, that Australia required for extradition an undertaking that the requesting country would not impose or carry out the death penalty on the extradited person. The Attorney-General, usually relying on information received from Australian diplomats abroad, must also be satisfied that the undertaking had substantive content. Singapore had, for instance, given a reliable undertaking to Australia in the *McCrea* case and McCrea had stood trial and had been sentenced in a Singapore court.

17. Responding to the question about Australia's involvement in the abuses at Abu Ghraib prison in Iraq, he stated that the Australian military had not participated in the guarding or interrogation of prisoners there.

18. **Ms. Nolan** (Australia) said, in response to a question relating to question 12 on human trafficking, that 124 persons had applied for support of various kinds as victims of trafficking. The Federal Police had investigated more than 250 allegations of trafficking and more than 30 people had been charged with the crime. Various special visas existed for victims to allow them to stay in Australia and assist in bringing perpetrators to justice. Such visas were granted by the Minister concerned at his discretion. Victims were also assisted in returning to their countries of origin.

19. **Mr. Campbell** (Australia) said that the Extradition Act prohibited extradition unless the Attorney General was convinced that the extradited person would not be subjected to torture; the requesting country had to provide a reliable undertaking that torture would not be imposed. The same applied to extraditions that might lead to female genital mutilation.

20. A number of members had asked questions about the implementation of the Covenant by the Commonwealth Government and the state and territorial governments. Basically, the states and territories were to enact legislation that was needed for peace, order and good government in their jurisdictions. That was not likely to lead to legislation

incompatible with the Covenant but, in the event that that should happen, the Commonwealth would bring the problem to the attention of the state or territory and, if the problem was not corrected, would declare the offending legislation unconstitutional.

21. **Mr. O'Flaherty** said there was still some concern over Australia's effective protection of human rights with regard to the death penalty. It was unclear why undertakings by countries requesting the extradition of Australian citizens were insufficient in the context of torture, but sufficient in that of the death penalty. He urged the State party to consider strengthening its legislation and practice on extradition to countries that practised the death penalty. Similarly, with regard to mutual assistance, Judge Finn, in the *Rush v. Commissioner of Police* case, had himself expressed wariness about the adequacy of Australian legislation in the area of police-to-police assistance to States where the death penalty was carried out. He urged the State party to reconsider its practice in that area.

22. He did not question the good faith of the State party in experimenting with the format of its fifth periodic report (reply to question 24), but welcomed the fact that it was not wedded to that approach in the future.

23. Turning to the issue of family violence and sexual abuse (question 7), he asked whether sexual violence against children was specifically addressed under the community safety initiatives of the Council of Australian Governments clearing house for indigenous outcomes.

24. The national human rights consultation (question 1) was an excellent initiative of international interest and the resulting good practices should be widely disseminated. His only concern related to the timeline: six months seemed relatively short for all that the Australian Government hoped to achieve. He suggested that an extension might be considered towards the end of the consultation process, if necessary.

25. Turning to the issue of invoking the Covenant before the courts, he recognized the non-self-executing nature of international treaties in a common law jurisdiction such as Australia; however, the rules were different for customary international law, which accounted for much of the Covenant's provisions. He furthermore urged the State party to consider extending judicial education to include the Covenant.

26. With regard to the case of *Young v. Australia* (reply to question 3), he welcomed the amending legislation passed by the Australian Parliament, but nevertheless strongly urged the State party to reconsider compensating Mr. Young.

27. Finally, he welcomed the statistics provided with regard to the Murri courts and said that it would be useful for the State party to include such information in future written replies to the Committee's list of issues.

28. **Mr. Amor** asked if and to what extent racial and religious hate speech constituting incitement to discrimination and hostility affected minorities in Australia. Moreover, he wondered whether Australia had experienced islamophobia, particularly arabophobia, and, if so, to what extent.

29. **Sir Nigel Rodley** said that the standard legal test applied by human rights bodies related to the identification of a real risk that an individual would be subject to torture, rather than to substantial grounds for believing that an individual would certainly be tortured. It would be useful to learn whether the origin of the Australian legal test was judicial or legislative. He would also like to know if the test was, in practice, seen to be inconsistent with the test of human rights bodies.

30. With regard to the allegations of abuse in the Abu Ghraib prison, he requested further information on which interrogation practices had been identified by the International Committee of the Red Cross in its report of October 2003; which of those practices Major O'Kane had believed or disbelieved; and which of them he had believed were consistent with the Geneva Conventions of 1949. He would also like to know why Colonel Kelly's reports had been ignored.

31. The formal apology made by the Australian Government to the Stolen Generations was a positive development. However, he wondered what reparations were envisaged for the surviving victims. He would furthermore appreciate additional information on the State party's follow-up to the consultations of the Human Rights and Equal Opportunity Commission regarding the possible replacement of the Aboriginal and Torres Strait Islander Commission with a more representative body that could legitimately be seen to be the voice of the indigenous peoples of Australia.

32. According to information received by the Committee, there had been excessive use of force by

police, including inappropriate use of taser guns. He would like to know to what extent, at both federal and state levels, rules relating to the use of force conformed to the norms of necessity and proportionality that were very clearly articulated in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

33. **Ms. Majodina** commended the State party for abolishing the practice of sending asylum seekers arriving without authorization to other countries for processing. However, she wondered how Australia could reconcile the so-called excise zone, including Christmas Island and the high-security migration detention centre located there, with its obligation to provide consistent access to Covenant rights in all areas under its jurisdiction.

34. With regard to continuing racial discrimination in the Northern Territory, she wondered why the State party was delaying bringing measures enacted under the Northern Territory Emergency Response into line with the Covenant, particularly with regard to protection against racial discrimination.

35. **Ms. Keller** thanked the delegation for the preliminary statistics provided with regard to violence against women and said she would welcome more detailed statistics as soon as was feasible.

36. **Mr. Campbell** (Australia) said that the issues of extradition and mutual assistance as well as police-to-police assistance were currently under review; the delegation would draw the Committee's comments to its Government's attention.

37. Turning to the national human rights consultation, he said while the time frame might appear relatively short, the consultation was an intense process involving many resources and modes of consultation. The August deadline already reflected a one-month extension; an additional extension, if necessary, should not be a problem.

38. He understood the Committee's concerns regarding the Young case and said he would draw its comments to the attention of the relevant authorities.

39. **Mr. Goledzinowski** (Australia), referring to the issue of undertakings, said that Australia distinguished between exposure to risk of torture and exposure to risk of the death penalty because States that practised torture tended not to admit it, whereas States that practised the death penalty were usually very open about it and could therefore be considered more reliable in terms of their undertakings.

40. **Mr. Smith** (Australia) confirmed that the community safety initiatives under the Council of Australian Governments clearing house for indigenous outcomes would indeed cover family violence and abuse, especially child abuse.

41. The apology to the Stolen Generations had been a symbolic first step in amending past wrongs. The Australian Government was committed to continue working with victims through a series of initiatives to facilitate family reunions and to close the gap between indigenous and non-indigenous Australians. While the Government was not planning on providing reparations to the survivors of the Stolen Generations, individual claims could be made through the courts system.

42. Regarding the establishment of a national indigenous representative body, he said that the Australian Government was committed to giving indigenous peoples a voice in national issues that concerned them. The first round of consultations undertaken by the Government, which had demonstrated widespread support for the establishment of such a body, had been expanded at the request of indigenous groups. An independent steering committee had been set up to oversee the second round of consultations and was expected to deliver its final report by July 2009.

43. The legislation passed under the Northern Territory Emergency Response that had in effect suspended the operation of the Racial Discrimination Act had not yet been repealed, as it was necessary to ensure a smooth transition from the old policy to the new one. In addition to introducing legislative amendments in the spring parliamentary session of 2009 to bring the Northern Territory Emergency Response into line with the Racial Discrimination Act, the Government would legislate in the first half of 2009 to ensure that people in the Northern Territory subject to income management had access to the full range of appeal rights.

44. **Mr. Illingworth** (Australia), responding to the question relating to islamophobia and arabophobia, said that the Australian Government had a long-standing interest in promoting a tolerant, multicultural society. The previous Government had established a temporary Muslim community reference group to provide it with advice and make recommendations on

issues relating to current international events; those recommendations had subsequently been implemented. In December 2008, the current Government had reviewed all its community relations programmes and established a new Multicultural Advisory Council, comprised of representatives of the Government, the community and the private sector, to support the Government in developing cultural diversity programmes and in communicating with the public on related issues. The Council considered cultural diversity issues, including intolerance and racism, of concern to all Australians, and emphasized the benefits of diversity. The Council members, who included three Muslims, had nevertheless not been chosen in any representational capacity, but rather for their significant contributions to the success of a diverse Australia.

45. In January, the Government had established a new Diverse Australia Program that focused on issues of racial intolerance and provided grants to build the capacity of small community organizations. An "emerging issues" component of the Program provided for larger-scale funding to help respond to issues of racial intolerance that occasionally emerged in particular locations.

46. **The Chairperson** invited the delegation to address questions 13-24 on the list of issues (CCPR/C/AUS/Q/5).

47. **Mr. Illingworth** (Australia), responding to question 13 on the list of issues, said that his Government was committed to mandatory immigration detention to support the integrity of its immigration programme. Such detention was administrative in nature and was not used for punitive or correctional purposes. Moreover, immigration detention centres would detain persons only as a last resort and for the shortest possible time. Further visa options were also being developed to avoid inappropriate detention.

48. Flexible immigration detention options included immigration residential housing, immigration transit accommodation, alternative places of detention and community detention. While such options still required a level of security and restricted liberty, they were less intrusive than other detention options and thus always preferable to accommodation in immigration detention centres.

49. Since the Government had decided to implement its immigration detention values immediately, the Department of Immigration and Citizenship was already working to implement those values in excised offshore locations, including Christmas Island. Accordingly, asylum-seekers would now receive publicly-funded advice and access to independent review in the event of unfavourable decisions and their cases would be subject to external scrutiny by the Immigration Ombudsman.

50. Furthermore, on 19 December 2008, the Minister for Immigration and Citizenship had approved the opening of a new Christmas Island immigration detention centre for single adult males as a temporary measure to facilitate current processing needs. Since the centre was a low security facility, steps had been taken to minimize restrictions there.

51. **Mr. Campbell** (Australia), responding to question 14, drew attention to paragraphs 114, 115 and 118 of the written replies.

52. Responding to question 15, he drew attention to paragraphs 120-122 of the written replies.

53. Responding to question 17, he said that the system of security clearance for lawyers was compatible with article 14 of the Covenant since the current measures struck a reasonable balance between protecting the interests of the State and the interests of the accused in criminal trials. Under the National Security Information (Criminal and Civil Proceedings) Act of 2004, the Secretary of the Attorney-General's Department could notify a legal representative if an issue in the proceedings required disclosure of information that was likely to prejudice national security. The legal representative could then apply for security clearance through the appropriate channels.

54. **Ms. Nolan** (Australia), responding to question 18, said that the Australian Government and state and territory governments had been working together and independently to improve the conditions of detention and mental health care for prisoners. States and territories delivered corrective services in accordance with the Standard Guidelines for Corrections in Australia, which comprised a uniform set of principles used to develop relevant legislative, policy and performance standards on correctional practice. The Guidelines stated that prisoners suffering from mental illness should be provided with appropriate support services, including psychiatric services, as well as appropriate tertiary or specialist health-care facilities in cases of severe psychiatric illness.

55. **Mr. Illingworth** (Australia), also responding to question 18, said that the Government's new detention values were a commitment to immigration detention for the shortest period possible and provided for increased transparency and accountability. Indefinite or arbitrary detention was unacceptable, and the length and conditions of detention would be subject to regular review. To that end, three-month reviews would be conducted by senior officers from the Department of Immigration and Citizenship, followed by six-month reviews by the Commonwealth Ombudsman, to consider the appropriateness of a person's detention, his or her detention arrangements and other matters relevant to his or her ongoing detention and case resolution.

56. The Department of Immigration and Citizenship had memorandums of understanding or agreements in principle with state and territory health departments to ensure that hospital services were provided at an appropriate level. It continued to monitor the general and mental health needs of all people in immigration detention to ensure that models of health care and health resources catered for needs.

57. **Mr. Campbell** (Australia), responding to question 19, noted that the reverse burden of proof contained in the Crimes Act (paras. 149-152 of the written replies) with respect to bail for persons charged with a terrorism offence was considered necessary in order to achieve a nationally consistent approach. While the exceptional circumstances permitting rebuttal of the presumption against bail were not defined, courts considering bail applications were required to exercise discretion in determining their existence. In that regard, each case was assessed on its merits. There had been two cases where the courts had found that exceptional circumstances existed and in which bail had therefore been granted to the defendants.

58. **Mr. Illingworth** (Australia), taking up question 20, said that Australia's application of its non-refoulement obligations hinged on security-based considerations; under the new visa arrangements currently being explored, decisions in that regard would be open to judicial review. While complementary protection for asylum-seekers fell within the discretionary powers of the Minister for Immigration and Citizenship, guidelines had been issued for the assessment of non-refoulement obligations under all the relevant international instruments. The Government was also considering the possibility of introducing criteria for that assessment into the protection visa framework, particularly with regard to the right to life and the right not to be subjected to torture. Such an approach would ensure a transparent, accountable, objective and statute-based assessment process.

59. The Department of Immigration and Citizenship had introduced a number of administrative improvements to streamline requests to the Minister for Immigration and Citizenship and to ensure their timely assessment. In addition, the Department was studying the practices of other countries and consulting independent agencies and key interest groups with a view to further improving the system of protection.

60. As to whether immigration detention could exceed two years, that could happen in rare cases in the light of the assessed risk. However, such cases were subject to close and continuing review. Moreover, the Minister for Immigration and Citizenship had recently announced measures to strengthen the review and oversight machinery already in place, in particular by referral to the Immigration Ombudsman of cases involving more than six months' detention. Immigration officers were required to have clear risk-based reasons for detention and to give every consideration to the possibility of issuing a visa. The small number of non-citizens currently subject to prolonged detention presented risks of repeated non-compliance with their visa conditions.

61. Pending a decision by the Government, claims relating to non-refoulement obligations under treaties other than the Refugees Convention would continue to be referred to the Minister for Immigration and Citizenship for consideration.

62. **Ms. Nolan** (Australia), responding to question 21, said that religious freedom was guaranteed by the Australian Constitution and that the Racial Discrimination Act of 1975 prohibited vilification on the basis of race, colour, or national or ethnic origin. Her Government was committed to ensuring that all Australians were able to practise their religion and express their beliefs without intimidation or interference.

63. Her Government had undertaken several initiatives which responded to the recommendations contained in the *Isma — Listen* report. In that connection, the Australian Human Rights Commission

was running a community and police partnerships project to encourage partnerships between the police and Muslim communities and the Commission was undertaking a project entitled "Freedom of Religion and Belief in the Twenty-First Century".

64. Responding to question 23, she noted that the Committee's concluding observations on Australia's third and fourth periodic reports had been circulated to states and territories and relevant Commonwealth departments; Australia's fifth periodic report to the Committee had been circulated in the same manner and also submitted to the Federal Parliament for discussion.

65. For its part, the Australian Human Rights Commission had statutory functions to promote understanding, acceptance and public discussion of human rights in Australia, and its website contained detailed information on domestic human rights law and international human rights treaties to which Australia was a party. Australia also had a strong and active non-governmental community which provided vital information to the public and to Government and public officials on human rights issues.

66. **Ms. Nolan** (Australia), addressing the issue of reporting methodology (question 24), stressed that Australia was one of the first countries to have submitted a report under the harmonized guidelines; that report had accordingly been designed as an annex to its common core document (HRI/CORE/AUS/2007) and in no way purported to serve as a unified report. Difficulties had been encountered, however, in keeping within the page limits established and in presenting up-to-date information. The State party was not committed to continuing with that format and would take the views of the Committee duly into account when preparing future reports.

67. **Mr. Bhagwati**, referring to question 13, requested further details on the impact that the proposed changes to the asylum and migration policy would have on the detention of illegal immigrants and asked whether the new policy was subject to review. He also requested further information on the procedures for processing unauthorized boat arrivals, including on Christmas Island. In that connection, he wished to know what percentage and category of detainees on Christmas Island who raised protection issues were entitled to receive publicly funded assistance.

68. With regard to question 16, he asked how many times the Government had ordered the payment of compensation for wrongful arrest, detention and conviction and on what basis such compensation had been paid to victims.

69. He also asked how many cases were dealt with by the Immigration Ombudsman and the Australian Human Rights Commission in a given year, whether the recommendations of both were binding on the Government and, if not, what percentage of their recommendations had been rejected by it and whether the grounds for rejection were usually explicitly stated.

70. **Ms. Keller**, referring to question 19, asked what grounds, including the burden of proof, judges had used to justify the granting of bail in cases of persons charged with a terrorism offence. Furthermore, given the limited access that a person charged with a terrorism offence might have to the State party's evidence, she wondered how such a person could be expected to have a reasonable opportunity to prove the existence of exceptional circumstances in order to be granted bail. She therefore requested more information about the aforementioned two cases in which bail had been granted.

The meeting rose at 1 p.m.